

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 453

Introduced by Assembly Member Benoit

February 15, 2005

An act to amend Sections ~~2454, 2456, 2456~~ and 2458 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 453, as amended, Benoit. Grade separation projects.

Existing law requires the California Transportation Commission to make allocations for grade separation projects, as defined. ~~Existing law requires a railroad to agree to contribute 10% of the cost of a project in order for an allocation to be made for projects that eliminate an existing crossing, or alter or reconstruct an existing grade separation.~~ Existing law requires, in order for an allocation for construction costs, or for preconstruction costs if not already allocated, to be made, that a local agency furnish certain evidence satisfactory to the Department of Transportation, including that all matters prerequisite to the award of the construction contract can be accomplished within one year after the allocation.

This bill would ~~instead require a railroad to agree to contribute 5% of the cost of a project in order for those allocations to be made.~~ The bill would require, in order for an allocation for construction costs, or for preconstruction costs if not already allocated, to be made, that a local agency furnish evidence satisfactory to the department that all matters prerequisite to the award of a construction contract can be accomplished within two years after the allocation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2454 of the Streets and Highways Code~~
2 ~~is amended to read:~~

3 ~~2454. Allocations made pursuant to Section 2453 shall be~~
4 ~~made on the basis of the following:~~

5 ~~(a) An allocation of 80 percent of the estimated cost of the~~
6 ~~project shall be made; except that whenever contributions from~~
7 ~~other sources exceed 20 percent of the estimated cost, the~~
8 ~~allocation shall be reduced by the amount in excess of 20 percent~~
9 ~~of the estimated cost.~~

10 ~~(b) An allocation of 50 percent of the estimated cost of the~~
11 ~~project shall be made for a proposed crossing.~~

12 ~~(c) No allocation shall be made in excess of 50 percent of the~~
13 ~~estimated cost of the project unless the grade crossing to be~~
14 ~~eliminated has been in existence for at least 10 years prior to the~~
15 ~~date of allocation.~~

16 ~~(d) On projects which eliminate an existing crossing, or alter~~
17 ~~or reconstruct an existing grade separation, no allocation shall be~~
18 ~~made unless the railroad agrees to contribute 5 percent of the cost~~
19 ~~of the project.~~

20 ~~(e) Where a project does not include a grade separation, but~~
21 ~~eliminates existing grade crossing or crossings, the allocation~~
22 ~~shall not exceed the estimated allocation that would have been~~
23 ~~made for the grade separation which is no longer needed because~~
24 ~~of the elimination of the grade crossing by the project and which~~
25 ~~is indicated on the priority list to be urgently in need of grade~~
26 ~~separation.~~

27 ~~(f) Where the project includes the separation of a highway and~~
28 ~~a railroad passenger service operated by a city or county, the~~
29 ~~operating agency shall contribute 20 percent of the cost of the~~
30 ~~project. The priority listing for such projects shall be in~~
31 ~~accordance with criteria established for such railroad passenger~~
32 ~~service by the Public Utilities Commission.~~

33 ~~(g) Notwithstanding subdivisions (a) to (f), inclusive, the total~~
34 ~~of such allocations for a single project shall not exceed five~~
35 ~~million dollars (\$5,000,000) without specific legislative~~
36 ~~authorization, except that the amount for a single project may be~~
37 ~~increased to either (1) an amount that includes the federal~~
38 ~~construction cost index increase each year since 1976, or (2) an~~

1 ~~amount which does not exceed one-third of the total funds~~
2 ~~appropriated for grade separation projects for the year of~~
3 ~~allocation, whichever amount is less, as determined each year by~~
4 ~~the Public Utilities Commission.~~

5 ~~(h) Notwithstanding subdivisions (a) to (g), inclusive, a single~~
6 ~~project in excess of five million dollars (\$5,000,000), but not~~
7 ~~exceeding twenty million dollars (\$20,000,000), shall be~~
8 ~~considered without specific legislative authority, if the project (1)~~
9 ~~is included in the Public Utilities Commission's priority list of~~
10 ~~projects scheduled to be funded, (2) eliminates the need for~~
11 ~~future related grade separation projects, (3) provides projected~~
12 ~~cost savings of at least 50 percent to the state or local~~
13 ~~jurisdiction, or both of them, by eliminating the need for future~~
14 ~~projects, and (4) alleviates traffic and safety problems or~~
15 ~~provides improved rail service not otherwise possible. Projects~~
16 ~~approved pursuant to this subdivision shall be funded over a~~
17 ~~multiyear period, not to exceed five years, and the allocation for~~
18 ~~any one of those years shall not exceed the amount prescribed by~~
19 ~~subdivision (g) for a single project. An agency which has~~
20 ~~received an allocation for a project approved pursuant to this~~
21 ~~subdivision shall not be eligible for an allocation for another~~
22 ~~project under this subdivision for a period of 10 years from the~~
23 ~~date of approval of that project. Not more than one-half of the~~
24 ~~total allocation available in any one fiscal year for grade~~
25 ~~separation projects may be used for the purposes of this~~
26 ~~subdivision.~~

27 ~~(i) Notwithstanding any of the above provisions of this section~~
28 ~~or any other provision of law, when the state or local agency uses~~
29 ~~funds derived from federal sources in financing its share of~~
30 ~~project costs, the railroad contribution, where required by federal~~
31 ~~law or regulation, shall be computed pursuant to federal law.~~
32 ~~However, the allocation made pursuant to this chapter shall be~~
33 ~~computed as though such matching contribution was derived~~
34 ~~from nonfederal sources and shall be computed as though the~~
35 ~~railroad had made its contribution pursuant to state law rather~~
36 ~~than pursuant to federal law. Where the contribution of the~~
37 ~~railroad is computed according to federal law or regulation~~
38 ~~because of the use of federal funds in the allocation for a project,~~
39 ~~the allocation shall be increased by the amount the share of the~~

1 ~~railroad is reduced below 5 percent of the estimated cost of the~~
2 ~~project.~~

3 ~~SEC. 2.~~

4 *SECTION 1.* Section 2456 of the Streets and Highways Code
5 is amended to read:

6 2456. An allocation for construction costs, including
7 preconstruction costs if not already allocated, shall be made to a
8 local agency only if it furnishes evidence satisfactory to the
9 department that all necessary orders of the Public Utilities
10 Commission have been executed, that sufficient local funds will
11 be made available as the work of the project progresses, that all
12 necessary agreements with affected railroad or railroads have
13 been executed that, if required, all environmental impact reports
14 have been prepared and approvals obtained, and that all other
15 matters prerequisite to the award of the construction contract can
16 be accomplished within two years after the allocation. Local
17 funds shall be deemed available to the amount of any general
18 obligation bonds authorized but unsold if it is determined that
19 such bonds may be issued and sold by the local agency at any
20 time.

21 ~~SEC. 3.~~

22 *SEC. 2.* Section 2458 of the Streets and Highways Code is
23 amended to read:

24 2458. Except as provided in this section, allocations shall
25 remain available until expended. If a construction contract has
26 not been awarded within two years after an allocation for
27 construction costs, the commission may order the allocation
28 canceled and such funds shall revert to the fund set aside for
29 purposes of this chapter. All or any part of an allocation for
30 preconstruction costs may be canceled and such funds shall
31 revert to the fund set aside for purposes of this chapter upon a
32 finding that insufficient progress is being made to complete the
33 project. Where an allocation is canceled pursuant to this section,
34 the local agency shall reimburse the fund set aside for purposes
35 of this chapter the portion of the allocation which is not reverted
36 as set forth in this section. The department shall determine, with
37 the local agency, as to the time of repayment.